SCOTTISH STATUTORY INSTRUMENTS

2017 No. 129

ROAD TRAFFIC

The M90/A90 Trunk Road (Admiralty Interchange to Dalmeny) (Variable Speed Limits, Actively Managed Hard Shoulder and Bus Lane) Regulations 2017

Made - - - -	*25th April 2017*
Laid before the Scottish Parliament - - - -	*27th April 2017*
Coming into force - -	*26th May 2017*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 17(2), (3) and (3ZA) of the Road Traffic Regulation Act 1984(**1**) and all other powers enabling them to do so.

In accordance with section 134(8)(**2**) of that Act, they have consulted with such representative organisations as they think fit.

Citation and commencement

1. These Regulations may be cited as the M90/A90 Trunk Road (Admiralty Interchange to Dalmeny) (Variable Speed Limits, Actively Managed Hard Shoulder and Bus Lane) Regulations 2017 and come into force on 26thMay 2017.

Interpretation

2. In these Regulations—

"the 1995 Regulations" means the Motorways Traffic (Scotland) Regulations 1995(**3**);

"permitted vehicle" means a motor vehicle constructed or adapted to carry more than 23 seated passengers (exclusive of the driver);

(**1**) 1984 c.27. Section 17(2) was amended by the New Roads and Street Works Act 1991 (c.22), schedule 8, paragraph 28, by the Road Traffic Act 1991 (c.40), schedule 4, paragraph 25 and schedule 8, paragraph 1, by the National Parks (Scotland) Act 2000 (asp 10), schedule 5, paragraph 11 and by the Scotland Act 2012 (c.11), section 21(3). Section 17(3ZA) was inserted by the Scotland Act 2012, section 21(4).

(**2**) Section 134(8) was inserted by the Scotland Act 2016 (c.11), schedule 2, paragraph 12(5).

(**3**) S.I. 1995/2507, amended by the Crime and Courts Act 2013 (c.22), schedule 8, paragraph 190, S.I. 1995/3070, S.I. 1996/2664, S.I. 2004/3261, S.I. 2006/594, S.S.I. 2005/344, S.S.I. 2006/129 and S.S.I. 2013/119.

"relevant road" means the road known as the M90/A90 Edinburgh - Fraserburgh Trunk Road from Admiralty Interchange to Dalmeny.

Bus Lane

3. No person shall use, or permit the use of, any vehicle other than a permitted vehicle to enter, proceed or wait within the length of road described in Part 1 of the schedule of these Regulations.

Variable speed limits

4.—(1) A person must not drive a vehicle on a section of any of the specified lengths of the relevant road to which a variable speed limit applies at a speed exceeding the applicable variable speed limit.

(2) The section of the specified lengths of the relevant road to which a variable speed limit applies is the section of the road—

(a) beginning immediately after a relevant speed limit sign indicating a maximum speed limit other than the national speed limit; and

(b) ending immediately after—

(i) a relevant speed limit sign indicating that another maximum speed limit applies; or

(ii) traffic signs mounted on the same post bearing the words "Variable Speed Limit" and "Ends".

(3) The applicable variable speed limit is the maximum speed limit indicated by the relevant speed limit sign referred to in paragraph (2)(a)—

(a) when the vehicle passed that sign; or

(b) if higher, the maximum speed limit indicated by that sign ten seconds before the vehicle passed it.

(4) For the purposes of this regulation the relevant speed limit sign is to be taken as not indicating any maximum speed limit if, ten seconds before the vehicle passed it, the sign had not indicated any maximum speed limit.

(5) In this regulation—

"hard shoulder" means a part of the road which is adjacent to and situated on the left hand side of the carriageway, when facing in the direction in which vehicles may be driven in accordance with regulation 5 of the 1995 Regulations, and which is designed to take the weight of a vehicle;

"national speed limit" means any prohibition imposed on a road by regulation 3 of the Motorways Traffic (Speed Limit) Regulations 1974(**4**) or by the 70 miles per hour, 60 miles per hour and 50 miles per hour (Temporary Speed Limit) Order 1977(**5**);

"relevant speed limit sign" means a traffic sign of the type shown in diagram 670 in item 1, Part 2 of schedule 10 of the Traffic Signs Regulations and General Directions 2016(**6**) which is—

(a) displayed on a variable message sign which is situated over, on or near any part of a specified length of the relevant road; and

(b) directed at traffic on the specified length of road being driven in the direction that traffic is permitted to drive;

"road" includes the adjacent hard shoulder;

(**4**) S.I. 1974/502.

(**5**) This Order is not a Statutory Instrument. It was varied by the 70 miles per hour, 60 miles per hour and 50 miles per hour (Temporary Speed Limit) (Variation) Order 1978 and its provisions were continued in force indefinitely by the 70 miles per hour, 60 miles per hour and 50 miles per hour (Temporary Speed Limit) (Continuation) Order 1978 (S.I. 1978/1548).

(**6**) S.I. 2016/362.

"specified lengths of the relevant road" means any of the lengths of the relevant road specified in Part 2 of the schedule of these Regulations.

Exemptions

5.—(1) The prohibition in regulation 3 does not apply to—

(a) any vehicle being used in an emergency for fire brigade, coastguard, ambulance or police purposes;

(b) any vehicle being used in connection with the removal of any obstruction, or in connection with authorised works to or in the relevant road; or

(c) any vehicle being used in connection with the maintenance, inspection, repair, cleaning, clearance, alteration or improvement of the relevant road.

(2) No speed limit imposed by virtue of regulation 4 applies to vehicles falling within regulation 3(4) of the Road Traffic Exemptions (Special Forces) (Variation and Amendment) Regulations 2011(**7**) when used in accordance with regulation 3(5) of those Regulations.

Application of 1995 Regulations to the relevant road

6. In relation to the relevant road the 1995 Regulations apply as if they had been modified as follows—

(a) in regulation 2(1) (interpretation) as if—

(i) in the appropriate places, there were inserted—

""the 2016 Regulations" means the Traffic Signs Regulations and General Directions 2016(**8**);"

""actively managed hard shoulder" means the lengths of hard shoulder of the relevant road specified in schedule 2;"

""emergency refuge area" means a part of the relevant special road which is—

(a) adjacent to and situated on the left hand of the actively managed hard shoulder when facing the direction in which vehicles may be driven in accordance with regulation 5; and

(b) indicated by a marking of the type shown in diagram 1010 in item 10, Part 4 of schedule 11 of the 2016 Regulations;"

""permitted vehicle" means a motor vehicle constructed or adapted to carry more than 23 seated passengers (exclusive of the driver);"

""relevant road" means the road known as the M90/A90 Edinburgh - Fraserburgh Trunk Road from Admiralty Interchange to Dalmeny;"; and

(ii) in the definition of "carriageway" after the second occurrence of "motorway" there was inserted "(other than the actively managed hard shoulder)";

(iii) in the definition of "hard shoulder" after "vehicle" there was inserted "(and includes the actively managed hard shoulder)";

(b) in regulation 6(2) and (3)(a) and (b) (restriction on stopping) as if, in each place where it occurs, for "or in an emergency layby" there was substituted ", in an emergency layby, or emergency refuge area";

(c) as if for regulation 8 (restriction on the use of hard shoulders or emergency laybys) there was substituted—

(**7**) S.I. 2011/935.
(**8**) S.I. 2016/362.

"**Restriction on the use of hard shoulders, emergency laybys or emergency refuge areas**

8. No vehicle may be driven, moved or stopped or may remain at rest on any hard shoulder, emergency layby or emergency refuge area, except in accordance with regulations 6(2) and (3) and 8A.

Use of the actively managed hard shoulder

8A.—(1) A permitted vehicle may drive on the actively managed hard shoulder as if it was a lane of the carriageway.

(2) Paragraph (1) only applies where—

(a) the permitted vehicle has passed a traffic sign with the sign reference number 106.12/117.07 showing a bus symbol (which was authorised for use by the Scottish Ministers under sections 64 and 65 of the Road Traffic Regulation Act 1984(**9**) on 11th March 2014); and

(b) any gantry directly above the actively managed hard shoulder and most recently passed by the permitted vehicle was not displaying a traffic sign with sign reference number 5003 or 5003.1 (being item 33 in part 2, schedule 14 of the 2016 Regulations - lane closed to vehicular traffic).

(3) Where paragraph (1) applies the actively managed hard shoulder is to be regarded, in relation to a permitted vehicle, as part of the carriageway of the relevant road for the purposes of these Regulations.

(4) Nothing in this regulation affects or prevents the use by any vehicle of the actively managed hard shoulder as a hard shoulder in accordance with regulation 6(2) and (3).";

(d) in regulation 12(b)(i) (restrictions affecting animals carried in vehicles) as if after "emergency layby" there was inserted ", emergency refuge area"; and

(e) as if after the schedule there was inserted—

"SCHEDULE 2 Regulation 2(1)

THE ACTIVELY MANAGED HARD SHOULDER OF THE RELEVANT ROAD

1. The southbound on-slip at Ferrytoll Junction, from a point 200 metres or thereby north of the point where it begins to merge with the southbound carriageway to the point where the merge with the southbound carriageway ends.

2. The southbound carriageway, from the point where the southbound on-slip merges with the southbound carriageway at Ferrytoll Junction to the point where the southbound off-slip diverges from the southbound carriageway at Queensferry Junction.

3. The southbound off-slip at Queensferry Junction, from the southbound carriageway to a point 15 metres or thereby north of junction of the off-slip with the roundabout at Queensferry Junction.

(**9**) 1984 c.54. Section 64 was amended by the Road Traffic (Consequential Provisions) Act 1988 (c.54), schedule 3, paragraph 25(3), the New Roads and Street Works Act 1991 (c.22), schedule 8(II), paragraph 47, and the Scotland Act 2016 (c.11), section 41(3)(a) to (d). Section 65 was amended by the Local Government and Housing Act 1989 (c.42), section 153(1) and (2), the New Roads and Street Works Act 1991 (c.22), schedule 8 (II), paragraph 48(2) and (3), the Road Traffic Act 1991 (c.40), schedule 4, paragraph 29, the Infrastructure Act 2015 (c.7), schedule 1(2), paragraph 82(2) and (3) and the Scotland Act 2016 (c.11), section 41(5) to (9).

4. The northbound on-slip at Queensferry Junction, from a point 35 metres or thereby north of the junction of the on-slip with the roundabout at Queensferry Junction to the northbound carriageway.

5. The northbound carriageway, from the point where the northbound on-slip at Queensferry Junction merges with the northbound carriageway to the point where the northbound off-slip at Ferrytoll Junction diverges from the northbound carriageway.

6. The northbound off-slip at Ferrytoll Junction, from the northbound carriageway to a point 30 metres or thereby south of the junction of the off-slip with the roundabout at Ferrytoll Junction.

7. In this schedule—

(a) "on-slip" means a slip road intended for the use of traffic joining the main carriageway of the relevant road;

(b) "off-slip" means a slip road intended for the use of traffic leaving the main carriageway of the relevant road.".

St Andrew's House,
Edinburgh
25th April 2017

KEITH BROWN
A member of the Scottish Government

SCHEDULE Regulations 3 and 4

PART 1

LENGTH OF BUS LANE

That length of the relevant road being the furthermost left hand lane of the southbound off-slip at Ferrytoll Junction, from the point where the off-slip begins to diverge from the main southbound carriageway to a point 30 metres or thereby north of the junction of the off-slip with the roundabout at Ferrytoll Junction, a distance of 320 metres or thereby.

PART 2

LENGTHS OF THE RELEVANT ROAD ON WHICH A VARIABLE SPEED LIMIT MAY BE APPLIED

1. The southbound carriageway, from the point where the southbound on-slip merges with the southbound carriageway at Junction 1 Admiralty Interchange to a point 300 metres or thereby west of the point where the A90 crosses Standingstanes Road, Dalmeny.

2. The northbound carriageway, from the junction between the M90 and A90 at Scotstoun Junction to the point where the northbound on-slip merges with the northbound carriageway at Junction 1 Admiralty Interchange.

3. The southbound on-slip connecting the roundabout at Junction 1 Admiralty Interchange with the southbound carriageway.

4. The northbound off-slip connecting the northbound carriageway to the roundabout at Junction 1 Admiralty Interchange.

5. The southbound off-slip at Ferrytoll Junction, from the southbound carriageway to a point 30 metres or thereby north of the junction of the off-slip with the roundabout at Ferrytoll Junction.

6. The northbound on-slip at Ferrytoll Junction, from a point 40 metres or thereby north of the junction of the on-slip with the roundabout at Ferrytoll Junction to the northbound carriageway.

7. The southbound on-slip at Ferrytoll Junction, from a point 215 metres or thereby north of the point where it begins to merge with the southbound carriageway to the point where the merge with the southbound carriageway ends.

8. The northbound off-slip at Ferrytoll Junction, from the northbound carriageway to a point 30 metres or thereby south of the junction of the off-slip with the roundabout at Ferrytoll Junction.

9. The southbound off-slip at Queensferry Junction, from the southbound carriageway to a point 15 metres or thereby north of the junction of the off-slip with the roundabout at Queensferry Junction.

10. The northbound on-slip at Queensferry Junction, from a point 35 metres or thereby north of the junction of the on-slip with the roundabout at Queensferry Junction to the northbound carriageway.

11. The southbound on-slip at Queensferry Junction, from a point 20 metres or thereby south of the junction of the on-slip with the roundabout at Queensferry Junction to the southbound carriageway.

12. The northbound off-slip at Queensferry Junction, from the northbound carriageway to a point 20 metres or thereby south of the junction of the off-slip with the roundabout at Queensferry Junction.

13. In this schedule—

(a) a junction followed by a number is a reference to the junction of the M90 of that number;

(b) the "A90" means that part of the M90/A90 Edinburgh – Fraserburgh Trunk Road that is not motorway;

(c) the "M90" means that part of the M90/A90 Edinburgh – Fraserburgh Trunk Road that is motorway;

(d) "motorway" has the same meaning as in the 1995 Regulations;

(e) "off-slip" means a slip road intended for the use of traffic leaving the main carriageway of the M90/A90;

(f) "on-slip" means a slip road intended for the use of traffic joining the main carriageway of the M90/A90.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for variable speed limits, a bus lane and an actively managed hard shoulder on various sections of the road known as the M90/A90 Edinburgh to Fraserburgh Trunk Road, from Admiralty Interchange to Dalmeny ("the relevant road").

Regulation 3 provides for a bus lane on the section of the relevant road specified in Part 1 of the schedule, for use by buses with seating for more than 23 passengers. Regulation 5 permits, by way of an exemption, the use of the lane in an emergency for police, fire brigade, ambulance and coastguard purposes. The exemption also allows the bus lane to be used by vehicles for certain purposes, such as removing an obstruction from the road or repairing it.

Regulation 4 provides for variable speed limits to have effect on the sections of the relevant road specified in Part 2 of the schedule. Where variable speed limit signs are in operation, a person must not drive a vehicle above the maximum speed indicated by the last speed limit sign passed by the vehicle. Where a speed limit sign changes 10 seconds or less before a vehicle passes the sign and the sign had indicated a higher speed limit, the regulation allows a driver to proceed at a speed up to the maximum applicable before the change. Where the speed limit sign indicates a speed limit when it is passed by the vehicle but 10 seconds before it was not showing any speed limit, it is to be taken as not indicating any speed limit to that vehicle. In such an instance, the variable speed limit provisions will not apply and the default maximum speed will be 70 miles per hour as provided for by the Motorways Traffic (Speed Limit) Regulations 1974 or the 70 miles per hour, 60 miles per hour and 50 miles per hour (Temporary Speed Limit) Order 1977.

The Regulations also apply the Motorways Traffic (Scotland) Regulations 1995 ("the 1995 Regulations") to the relevant road as if they have been modified to provide for "an actively managed hard shoulder", which is a hard shoulder that may be driven on in certain circumstances. The Regulations provide that the only vehicles permitted to drive on the actively managed hard shoulder are motor vehicles constructed or adapted to carry more than 23 seated passengers (exclusive of the driver) (see regulation 6).

In relation to the relevant road, regulation 6 has the effect of substituting, for the current regulation 8 of the 1995 Regulations, new regulations 8 and 8A. New regulation 8A provides that sections of the hard shoulder set out in schedule 2 of the 1995 Regulations (provided by regulation 6(e) of these Regulations) may be used as a carriageway by permitted vehicles when traffic sign reference

number 106.12/117.07 showing a bus symbol, authorised for use by the Scottish Ministers under sections 64 and 65 of the Road Traffic Regulation Act 1984 on 11th March 2014, is displayed. Such permitted vehicles must cease to use the hard shoulder as a carriageway when a traffic sign with the sign reference 5003 or 5003.1 (item 33, Part 2 of schedule 14 of the Traffic Sign Regulations and General Directions 2016 – lane closed to vehicular traffic) is displayed above the hard shoulder.

Contravention of the Regulations is an offence under section 17(4) of the Road Traffic Regulation Act 1984.